

## Department of Energy

## § 490.308

(1) transforming alternative fuels into a product that is not an alternative fuel; or

(2) consuming alternative fuels as a feedstock or fuel in the manufacture of a product that is not an alternative fuel.

### **§ 490.304 Which new light duty motor vehicles are covered.**

(a) *General rule.* Except as provided in paragraph (b) of this section, the vehicle acquisition mandate schedule in section 490.302 of this part applies to all light duty motor vehicles newly acquired for use within the United States by a covered person described in section 490.303 of this part.

(b) *Exception.* If a covered person has more than one affiliate, division, or other business unit, then section 490.302 of this part only applies to light duty motor vehicles newly acquired by an affiliate, division, or other such business unit which is substantially engaged in the alternative fuels business.

### **§ 490.305 Acquisitions satisfying the mandate.**

The following actions within the model year qualify as acquisitions for the purpose of compliance with the requirements of section 490.302 of this part—

(a) The purchase or lease of an Original Equipment Manufacturer light duty vehicle (regardless of the model year of manufacture), capable of operating on alternative fuels that was not previously under the control of the covered person;

(b) The purchase or lease of an after-market converted light duty vehicle (regardless of the model year of manufacture), that was not previously under the control of the covered person; and

(c) The conversion of a newly purchased or leased light duty vehicle to operate on alternative fuels within four months after the vehicle is acquired by a covered person; and

(d) The application of alternative fueled vehicle credits allocated under subpart F of this part.

### **§ 490.306 Vehicle operation requirements.**

The alternative fueled vehicles acquired pursuant to section 490.302 of

this part shall be operated solely on alternative fuels, except when these vehicles are operating in an area where the appropriate alternative fuel is unavailable.

### **§ 490.307 Option for Electric Utilities.**

(a) A covered person or its affiliate, division, or business unit, whose principal business is generating, transmitting, importing, or selling, at wholesale or retail, electricity has the option of delaying the vehicle acquisition mandate schedule in section 490.302 until January 1, 1998, if the covered person intends to comply with this regulation by acquiring electric motor vehicles.

(b) If a covered person or its affiliate, division, or business unit, whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity has notified the Department as required by the Act, of its intent to acquire electric motor vehicles, the following percentages of new light duty motor vehicles acquired shall be alternative fueled vehicles for the following time periods:

(1) 30 percent from January 1, 1998 to August 31, 1998.

(2) 50 percent for model year 1999.

(3) 70 percent for model year 2000.

(4) 90 percent for model year 2001 and thereafter.

(c) Any covered person or its affiliate, division, or business unit, that chooses the option provided by this section may apply for an exemption from the vehicle acquisition mandate in accordance with section 490.308 of this regulation.

(d) Any covered person or its affiliate, division, or business unit, that chooses to rescind its election of the option provided in this section shall be required, unless otherwise exempt, to acquire alternative fueled vehicles in accordance with the vehicle acquisition schedule in section 490.302.

### **§ 490.308 Process for granting exemptions.**

(a) To obtain an exemption from the vehicle acquisition mandate in this subpart, a covered person, or its affiliate, division, or business unit which is subject to section 490.302 of this part,

shall submit a written request for exemption to the Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, EE-33, 1000 Independence Ave., SW., Washington, DC 20585, or such other address as DOE may publish in the FEDERAL REGISTER, along with the supporting documentation required by this section.

(b) A covered person requesting an exemption must demonstrate that—

(1) Alternative fuels that meet the normal requirements and practices of the principal business of the covered person are not available from fueling sites that would permit central fueling of that person's vehicles in the area in which the vehicles are to be operated; or

(2) Alternative fueled vehicles that meet the normal requirements and practices of the principal business of the covered person are not available for purchase or lease commercially on reasonable terms and conditions in any State included in a MSA/CMSA that the vehicles are operated in.

(c) *Documentation.* (1) Except as provided in paragraph (c) (2) of this section, if a covered person is seeking an exemption under paragraph (b)(1) of this section, the types of documentation that are to accompany the request include, but are not limited to, maps of vehicle operation zones and maps of locations providing alternative fuel.

(2) If a covered person seeking an exemption under paragraph (b)(1) of this section operates light duty vehicles outside of the areas listed in Appendix A of subpart A, and central fueling of those vehicles does not meet the normal requirements and practices of that person's business, then that covered person shall only be required to justify in a written request why central fueling is incompatible with its business.

(3) If a covered person is seeking an exemption under paragraph (b)(2) of this section, the types of documentation that are to accompany the request include, but are not limited to, alternative fueled vehicle purchase or lease requests, a listing of vehicles that meet the normal practices and requirements of the covered person and any other documentation that exhibits good faith efforts to acquire alternative fueled vehicles.

(d) Exemptions are granted for one model year only and may be renewed annually, if supporting documentation is provided.

(e) Exemptions may be granted in whole or in part. When granting an exemption in part, DOE may, depending upon the circumstances, completely relieve a covered person from complying with a portion of the vehicle acquisition requirements for a model year, or it may require a covered person to acquire all or some of the exempted vehicles in future model years.

(f) The Assistant Secretary shall provide to the covered person within 45 days after receipt of a request that complies with this section, a written determination as to whether the State's request has been granted or denied.

(g) If a covered person is denied an exemption, that covered person may file an appeal within 30 days of the date of determination, pursuant to 10 CFR part 1003, subpart C, with the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Ave, SW, Washington, DC 20585. The Assistant Secretary's determination shall be stayed during the pendency of an appeal under this paragraph.

**§ 490.309 Annual reporting requirements.**

(a) If a person is required to comply with the vehicle acquisition schedule in section 490.302 or section 490.307, that person shall file an annual report under this section, on a form obtainable from DOE, with the Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, EE-33, 1000 Independence Ave., SW., Washington, DC 20585, or such other address as DOE may publish in the FEDERAL REGISTER, on or before the December 31 after the close of the applicable model year.

(b) This report shall include the following information—

(1) Number of new light duty motor vehicles acquired by the covered person in the United States during the model year;

(2) Number of new light duty alternative fueled vehicles that are required to be acquired during the model year;

(3) Number of new light duty alternative fueled vehicle acquisitions in